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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/700,814	11/20/2000	Alphonsus Johannes Van Tol	PTT-107(4026	3495

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EXAMINER

YUSSUF, SAJID

ART UNIT	PAPER NUMBER
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2141

DATE MAILED: 01/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/700,814

Applicant(s)

VAN TOL, ALPHONSUS
JOHANNES

Examiner

Sajid A Yussuf

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 5-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- ☐ Interview Summary (PTO-413) Paper No(s). ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Priority

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d).
The certified copy has been received.

Drawings

The drawings are objected to because examiner finds them to be vague and not elaborate enough to convey the inventive concept. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claim(s) 5-7 is/are rejected under 35 U.S.C. 102(e) as being anticipated by Li et al. (US Patent No. 6,021,088 and Li hereinafter)

1. As per claim(s) 5 Li discloses a system for establishing a permanent connection between the internet and a user subscribed to the internet (See Column 2 Lines 19-39), said system comprising a switching PoP having incoming lines through which switched telephone traffic enters (See Column 5 Lines 57-67), characterized in that said system further comprises a PoP manager (i.e., NOC), (See Column 5 Lines 24-45) and inputs which are not connected to the telephone exchange and which are permanently connected to a connection at a subscriber, said subscriber being connected through said connection, (See Column 5 Lines 30-56) inputs and switching PoP to an ISP on the basis of an instruction (i.e., hardware or software for management) (See Column 5 Lines 34-46) the PoP manager (i.e., NOC).
2. As per claim(s) 6 Li teaches the claimed invention as described in claim 5 above and furthermore discloses the inputs of the PoP not being connected to the telephone exchange can be executed as a two-wire connections in such a way that the subscriber is directly connected to the switching PoP and is switched on the basis of a instruction of the PoP manager; (i.e., there exist many forms of connections in which the user can be connected as including but not limited to directly being connected to the switching PoP), (See Column 5 Lines 38-56).
3. As per claim(s) 7 Li teaches the claimed invention as described in claims 5-6 above and furthermore discloses standard multiplexing equipment (i.e., distribution router) (See Column 6 Lines 13-25) is employed to which the subscriber is connected by a two-wire connection (i.e., copper wire pairs) (See Column 5 Lines 49-56), said multiplexing equipment being connected to said switching PoP (i.e., POP) (See Column 6 Lines 13-20) and is switched (i.e., managed) on the basis of an instruction of the PoP manager (i.e., NOC) (See Column 5 Lines 34-56).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim(s) 8 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Li et al. (US Patent No. 6,021,088 and Li hereinafter) in view of Sofman et al. (US Patent No. 5,937,042 and Sofman hereinafter).

1. As per claim 8 Li discloses the claimed invention as described above.

However, Li does not explicitly teach that the PoP is switchable by a PoP manager at a **distance**.

Sofman teaches PoP is switchable by a PoP manager (i.e., EO) at a **distance** (See Sofman Column 10 Lines 63-67 & Column 11 Lines 1-9 & Column 30 Lines 1-3); wherein rehome refers to a network change which involves moving telephone service traffic from one switching center to a different switching center. Likewise, the term rehome or rehomeing, used in a verb sense, is referred to as making the network change of moving telephone service traffic from one switching center to a different switching center.

Therefore it would have been obvious to a person having ordinary skill in the art at the time of Applicant's invention to modify the teaching of Li with the teachings of Sofman to include a PoP

that was switchable at a **distance** with the motivation to provide for rehome optimization solutions according to cost objectives...it provides an improved method and system for rehome optimization in response to a network alarm such as a traffic threshold exceeded or a failure detected on a switch, (See Sofman Column 3 Lines 1-19).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A. Tverskoy et al. (US Patent No. 6,341,160) discloses answering machine for transmitting messages to remotely accessible user account;

B. Bowater et al. (US Patent No. 6,282,269) discloses voice mail on the Internet; and


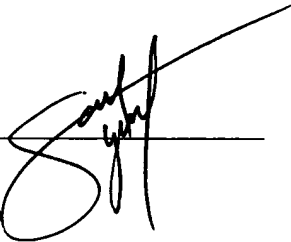
C. Terwitt et al. (US Patent No. 6,151,629) discloses triggered remote dial-up for Internet access;

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sajid A Yussuf whose telephone number is (703) 305-8752. The examiner can normally be reached on Monday-Thursday 7:30-5:00 PM and Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (703) 305-4003. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3718.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Sajid Yussuf
Patent Examiner
Technology center 2100
8 January 2004



RUPAL DHARIA
SUPERVISORY PATENT EXAMINER